1. AGENDA FOR APRIL 28, 2020
   Documents:
   
   A-04-28-2020-SPECIAL_MEETING.PDF

2. BINDER FOR APRIL 28, 2020
   Documents:
   
   BINDER04-28-2020.PDF
NOTICE OF A SPECIAL MEETING OF THE
CITY COMMISSION OF THE CITY OF BROWNSVILLE

TELECONFERENCE OPEN MEETING

Pursuant to Chapter 551, Title 5, Section 551.041, of the Texas Government Code, the Texas Open Act, notice is hereby given that the City Commission of the City of Brownsville will conduct a Special Meeting on Tuesday, April 28, 2020, at 5:00 P.M. via Webex Teleconference Meeting by logging on at:
https://brownsville.webex.com/brownsville/j.php?MTID=m226eab3c610c7413e4292ef88f9b5dcb
Meeting Number: 960 107 666

This Notice and Meeting Agenda, are posted online at: http://www.cob.us/AgendaCenter

The members of the public wishing to participate in the meeting hosted through Webex Teleconference can join at the following numbers:

Or you can join by phone:
+1-408-418-9388 United States Toll
Access code: 960 107 666
Password: meeting

Members of the public who submitted a “Public Comment Form” will be permitted to offer public comments as provided by the agenda and as permitted by the presiding officer during the meeting.

A recording of the meeting will be made and will be available to the public in accordance with the Open Meetings Act.

CALL TO ORDER

a) Roll Call
b) Invocation

PUBLIC COMMENT PERIOD

- **Non-Agenda Items:** Kindly submit a “Public Comment Form” stating the City business or City policy you wish to speak to before the start of the scheduled meeting time with the City Secretary. Forms are not reserved for anyone nor may time be deferred to anyone. PowerPoint presentations may not be accommodated. This period is limited to five (5) speakers with a time limit of three (3) minutes per speaker.

- **Agenda Items:** Kindly submit a “Public Comment Form” stating which item(s) on the agenda you wish to speak to before the start of the scheduled meeting time with the City Secretary. Speakers will be allowed to address the Commission on the agenda item before it is to be considered. The speaker is limited to three (3) minutes.

- **Time Limits:** The City Commission shall have the discretion to modify its regulations regarding time limits on public comment if necessary. For example, the time limit may be shortened to accommodate a lengthy agenda or it could be lengthened to allow additional time for discussion on a complicated matter or if there is a need for an interpreter.
1. Discussion regarding the City of Brownsville response to the urgent public necessity concerning COVID-19, otherwise known as Coronavirus, including but not limited to:
   
a. Continuity Plan Update: City staffing, facilities and services, including actions and continuity of such operations;
   b. Financial Update: Emergency Procurement; and
   c. Drive-thru collections/testing site update

PUBLIC HEARING (S)

2. Public Hearing and ACTION on FIRST READING on Ordinance Number 235-2019-011-S, to allow a wireless communication facility, a General Retail (4C) use in Light industrial “J” (7CJ) for a 1.67 acre tract of land in Lot 1, R.A. Lieck Estate, Partition Share 22, Espiritu Santo Grant, located near the corner of Fish Hatchery Road and Expressway 77. (District 4) (Planning and Redevelopment Department)

ITEM(S) FOR INDIVIDUAL CONSIDERATION

3. Consideration and ACTION to approve Interlocal Agreement between the City of Harlingen and the City of Brownsville to assist in the detection and mitigation efforts in response to the current worldwide COVID-19 pandemic by cooperating in the Drive-Thru Testing Site. (City Manager’s Office)

4. Consideration and ACTION on a License Agreement with the Mitte Foundation for Linear Park Improvements. (City Manager’s Office)

5. Consideration and ACTION to accept a Grant under the Coronavirus Air, Relief, and Economic Security Act (Public Law 116-136), in the amount of $1,857,797.00 from the Federal Aviation Administration for the Brownsville South Padre Island International Airport. (Airport Department)

6. Consideration and ACTION to vacate the prior City Commission action taken at the meeting of April 21, 2020, purporting to award the Anacua Street and Naranjo Road Pavement, Sidewalk, Driveway and Drainage Improvement Project to G & T Paving LLC, and award the project to the lowest responsive and responsible bidder Total Commitment Construction, in the amount $2,810,332.75, and authorize the Mayor to execute the construction contract. (Engineering/Public Works Department)

ADJOURNMENT

NOTE: The City of Brownsville does not discriminate on the basis of disability in the admission of, access to, treatment of, or employment in its programs, activities, or public meetings. Any individual with a disability in need of an accommodation is encouraged to contact the ADA Coordinator at 956/548-6037 (voice or Relay TX) by Monday, no later than 5:00 P.M., to make proper arrangements.

By: Juan “Trey” Mendez III
Mayor of the City of Brownsville

I certify that the above notice of the Special Meeting was posted on the Bulletin Area at City Hall – Old Federal Building, on April 24, 2020. I further certify that the Agenda was posted on the City’s website and can be downloaded by accessing: http://www.cob.us/AgendaCenter

Griselda Rosas, Interim City Secretary

Special Meeting April 28, 2020 – Page 2 of 2
NOTICE OF A SPECIAL MEETING OF THE
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Griselda Rosas, Interim City Secretary

Special Meeting April 28, 2020 – Page 2 of 2
TO: Noel Bernal, City Manager
FROM: 
SUBJECT: COVID-19
DATE: 4/24/2020
THROUGH: 

AGENDA ITEM COMMISSION MEETING DATE 04/28/20

Executive Session (City Attorney Only) Select Agenda Ordinance
Time Needed: Time Needed: ☐ Public Hearing ☐ First Reading
Action Item: ☐ Contract ☐ Second Reading

☐ Grant ☐ Action ☐ Consent

Information: Please include additional information/request.

1. Discussion regarding the City of Brownsville response to the urgent public necessity concerning COVID-19, otherwise known as Coronavirus, including but not limited to:

a. Continuity Plan Update: City staffing, facilities and services, including actions and continuity of such operations; 
b. Financial Update: Emergency Procurement; and 
c. Drive-thru collections/testing site update

Reviewing Departments: Please review and forward to the next reviewing department in a timely manner.

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City Commission
Approved: ☐ Yes ☐ No
Date: Initials: Date:

Assistant City Manager
Approved: ☐ Yes ☐ No
Date: Initials: Date:

Deputy City Manager
Approved: ☐ Yes ☐ No
Date: Initials: Date:

City Manager’s Approval
Signature: Date:

Revised 3/2019
AGENDA ITEM
COMMISSION MEETING DATE 04/28/20

Executive Session (City Attorney Only)

Time Needed:
Action Item:

Select

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Information: Please include additional information/request.

PUBLIC HEARING and ACTION on FIRST READING on ORDINANCE NUMBER 235-2019-011-S: To allow a wireless communication facility, a General Retail (4C) use, in Light Industrial “J” (7CJ) for a 1.67 acre tract of land in Lot 1, R.A. Lieck Estate, Partition Share 22, Espiritu Santo Grant, Cameron County, Texas, located near the corner of Fish Hatchery Road and Expressway 77, Brownsville, Texas 78520, as shown in Exhibit "A", (District 4).

Reviewing Departments: Please review and forward to the next reviewing department in a timely manner.

City Attorney | Date Reviewed: | By: | Comments:
Finance Department | Date Reviewed: | By: | Comments:

City Commission | Assistant City Manager | Deputy City Manager
Approved: | Yes | No | Approved: | Yes | No | Approved: | Yes | No
Date: | | | | | | | | | | |
Initials: | Date: | Initials: | Date: | Initials: | Date: |

City Manager's Approval
Signature: | Date: |
To: Mayor and City Commission
Through: Noel Bernal, City Manager
From: Rick Vasquez, Planning & Redevelopment Department Director
Date: April 28, 2020

RE: Approval on Ordinance No. 235-2019-011-S

Purpose
Plaintiff, New Cingular Wireless PCS, LLC, is requesting issuance of a Specific Use Permit to allow a wireless communication facility, a General Retail (4C) use, in Light Industrial “J” (7CJ) for a 1.67 acre tract of land in Lot 1, R.A. Lieck Estate, Partition Share 22, Espiritu Santo Grant, Cameron County, Texas, located near the corner of Fish Hatchery Road and Expressway 77, Brownsville, Texas 78520.

Background
1. On or about February 8, 2019, AT&T submitted an application for a Specific Use Permit to construct a 150-foot tall wireless telecommunications facility at the corner of Fish Hatchery Road and Expressway 77 in the city of Brownsville (“Site”).
2. On or about May 1, 2019, the Board of Adjustment voted to approve two variances from Sec. 338-34 – Development Standards, height and spacing requirements respectively.
3. On or about May 2, 2019, the Planning and Zoning Commission voted to recommend approval of the Specific Use Permit Application.
4. At 1st Reading on May 7, 2019, City Commission voted to deny the Application.
5. The Plaintiff appealed the denial of the Specific Use Permit Application under the Telecommunications Act.
6. The Court Order for Civil Action No. 1:19-cv-00091 was signed on April 1, 2020 in favor of the Plaintiff.

Action
As per the established process for adopting, approving, and enacting an amendment to the official zoning atlas and as per the aforementioned court order, a Specific Use Permit to allow a wireless communication facility must be issued expeditiously.

City of Brownsville, Texas

1001 E. Elizabeth St., P.O. Box 911, Brownsville, Texas 78522 Telephone: 956-548-6007 Fax: 956-546-4021 www.cob.us
**Specific Use Permit Application**

### Multi-Family/Office/Commercial/Retail/Industrial

- 0-1 Acres ....... $500.00
- 1-5 Acres ....... $750.00
- 5-10 Acres ....... $1,000.00
- 10. and Up ....... $1,250.00

### Single Family

- 0-1 Acres ....... $250.00
- 1-10. Acres ....... $500.00
- 10. and Up ....... $1,000.00

**City Commission**

**Planning and Zoning Commission**

**Tentative Date:**

**City of Brownsville Planning & Development Services**

**Tentative Date:**

---

**Geographic ID #:**

- 76-4150-0010-0100-00
- Property ID #: 143497

**Project Address:**

- TBD near 35 Fish Hatchery Road

**Subdivision:**

---

**Lot(s)/Block:**

---

**Current Zoning:**

- Light Industrial 7C

**Proposed Use:**

- Proposed 150' Monopole Cell Tower (Total Height: 160')

*Gross Acreage: 0.04 Acres

---

**Owner Information**

- **Name:** Nuryth Galinsky
- **Address:** 2500 E. University Blvd, Ste. #8
- **City:** Brownsville
- **State:** TX
- **Zip Code:** 78521
- **Telephone:** 956 492 9005
- **Fax:** None
- **Email:** tgc@qdevelopment.com

**Signature:** [Signature]

**Special Note:** INCOMPLETE APPLICATION WILL NOT BE ACCEPTED.

**Representative/Agent Information**

- **Name:** Jeff Marshall
- **Address:** 3975 Asbury Rd
- **City:** Birmingham
- **State:** AL
- **Zip Code:** 35243
- **Telephone:** 205 527 5791
- **Fax:** 205 490 2236
- **Email:** jmarshall@foresite.com

**Signature:** [Signature]

---

**Office Use Only**

**Date Submitted:** 02/15/19

**Code:** ZN32

**Application Fee:** $750.00

**Accepted By:** [Signature]

**Case Number:** 235-2019-011-8

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1024 E. LEVER STREET 2ND FLOOR • CITY PLAZA • BROWNSVILLE, TEXAS 78520
PHONE (956) 548-6150 • FAX (956) 548-6144
Section 316-09 (e)
NEW CINGULAR WIRELESS PCS, LLC, §
   Plaintiff,
   §
   §
   §

v. §

THE CITY OF BROWNSVILLE, TEXAS §
and THE CITY COMMISSION OF THE §
CITY OF BROWNSVILLE, §
   Defendant. §

ORDER

Pursuant to the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7) (the “Telecommunications Act”), the parties’ Settlement Agreement filed with this Court, the documents and information submitted in this action, and based on applicable law, the Court finds and orders as follows:

Plaintiff New Cingular Wireless PCS, LLC, an AT&T company (“AT&T”) alleges that Defendants the City of Brownsville and the City Commission of the City of Brownsville (collectively “Defendants” or the “City”) unlawfully denied AT&T’s application for a Specific Use Permit to construct a wireless telecommunications facility in Brownsville (“Application”). AT&T alleges, among other things, that the Defendants have not issued a timely, written decision supported by substantial evidence.

AT&T and the Defendants have entered into and executed a Settlement Agreement to settle and resolve the claims by AT&T in this matter.

This Court has jurisdiction over the parties and subject matter jurisdiction over this case pursuant to 47 U.S.C. §332(c)(7)(B)(v) and 28 U.S.C. §1331 and is authorized to issue declaratory relief pursuant to 28 U.S.C. § 2201-2202. The Court finds that venue is proper. Based upon the consent of the parties, the Court finds as follows:

1. On or about February 8, 2019, AT&T submitted to the Defendants an application for a Specific Use Permit to construct a 150-foot tall wireless telecommunications facility (the
“Proposed Facility”) at the corner of Fish Hatchery Road and Expressway 77 in the city of Brownsville (the “Site”), as described in that application (the “Application”);

2. AT&T submitted supporting documents with the Application in compliance with the Defendants’ requirements;

3. The Application complied with all the requirements in the City’s Code for construction of a wireless telecommunications tower and for a specific use permit, except as to the Defendants’ height and spacing requirements;

4. On or about May 1, 2019, the City’s Board of Adjustment voted to approve two variances from the City’s height and spacing requirements respectively;

5. On or about May 2, 2019, the City’s Planning and Zoning Commission voted to recommend approval of the Application and to grant the Specific Use Permit;

6. On May 7, 2019, the City held a City Commission meeting during which the City conducted a public hearing on AT&T’s Application for a Specific Use Permit;

7. At the May 7, 2019 hearing, AT&T presented supporting documentation that demonstrated AT&T’s significant gap in service, the need for additional capacity, the lack of alternative sites for the Proposed Facility and that the Site was the only suitable location to build the Proposed Facility;

8. There was no evidence contradicting AT&T’s evidence regarding the significant gap and absence of feasible alternatives;

9. At the May 7, 2019 meeting, the City Commission voted to deny the Application.

10. AT&T alleges the City failed to provide a timely, written decision supported by substantial evidence;

11. The Telecommunications Act provides that “[a]ny person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with [the Act] may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction.” 47 U.S.C. § 332(c)(7)(B)(v);

12. AT&T, through the captioned proceeding, timely appealed the City’s denial of its Application under the Telecommunications Act (the “Litigation”);

13. The Parties agree that Plaintiffs brought this action to allow the building of a new wireless telecommunication tower to fill a significant gap in wireless service;

14. The Parties agree that in denying the Application, AT&T timely filed the instant
Litigation alleging the City violated the Telecommunications Act. Among other things, AT&T alleged the City’s denial violated the Telecommunications Act because by failing to produce a final written denial the City has failed to act in a reasonable time in violation of 47 U.S.C. § 332(c)(7)(B)(ii);

15. To avoid any further expense and risk associated with the Litigation, the City consents to the entry of Judgment and resolution of this case;

Therefore, by consent of the Parties, it is hereby ORDERED, ADJUDGED and DECREED as follows:

Pursuant to the Telecommunications Act and the Settlement Agreement, the Court holds that AT&T timely filed the instant Litigation alleging the City’s denial of AT&T’s application for a specific use permit to construct a personal wireless service facility in the City violated 47 U.S.C. § 332(c)(7)(B) and is preempted by federal law, and the appropriate remedy for any violation of Section 332(c)(7)(B) is issuance of an order requiring the Defendants to grant AT&T’s Application.

Therefore, IT IS ORDERED that Judgment is granted to AT&T and issues this Order requiring the Defendants to grant AT&T’s Application and issue the Specific Use Permit expeditiously without the standard requirement of having AT&T adhere to the City’s regular application, public posting, and public hearing requirements. Defendants and AT&T are further absolved of having to comply with any City ordinances and state laws pertaining to the issuance of specific use permits so as to comply with this Court’s order.

IT IS FURTHER ORDERED that within ten days of this Order and Judgment, Defendants shall issue to AT&T a Specific Use Permit authorizing the construction and operation of Proposed Facility at the Site, as set forth in the drawings attached as Exhibit A to the Settlement Agreement.

IT IS FURTHER ORDERED that following issuance of the Defendant’s approval for the Proposed Facility, Defendants will cooperate to the extent necessary to provide any and all additional approvals for, or documents or information about, the Proposed Facility as may be required for AT&T to obtain any other additional permits or approvals.

IT IS FURTHER ORDERED that as a result of the Defendants’ action in response to this Order, granting AT&T’s Application, and upon receipt of any other necessary approvals, AT&T
shall be authorized to construct, operate, maintain, and use a personal wireless service facility located at the Site, as proposed in the Application and as conditioned by this Order and the Parties’ Settlement Agreement. No other relief except that provided according to the provisions of this Judgment and the Settlement Agreement entered into by the Parties is granted hereby. No costs and/or attorney’s fees are to be sought by or awarded to any party.

IT IS FURTHER ORDERED that the Court shall retain jurisdiction of this action after the entry of this Order and Judgment to the extent necessary to enforce compliance with it and the terms of the Settlement Agreement and to take any action necessary or appropriate for its interpretation, modification, or enforcement.

SIGNED this 1st day of April, 2020.

[Signature]
Rolando Olvera
United States District Judge

CONSENTED TO BY:
BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC
By: /s/ Kenneth E. McKay
Kenneth E. McKay
SBN: 13690835
1301 McKinney Street
Suite 3700
Houston, Texas 77010
(713) 650-9700
(713) 650-9701 – Facsimile
kmckay@bakerdonelson.com

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Birmingham, AL 35203
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Attorneys for Plaintiff
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HERNANDEZ, P.L.L.C.
By: /s/ Heather Scott
Heather Scott
Attorney In Charge
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USDC Adm. No. 1139283
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Of Counsel
GUERRA, LEEDS, SABO
& HERNANDEZ, P.L.L.C.
1534 E. 6th Street, Suite 200
Brownsville, Texas 78520
Telephone: (956) 541-1846
Facsimile: (956) 541-1893
Attorneys for Defendants
EXPEDITED PROCESSING AGREEMENT

This Expedited Processing Agreement (the “Agreement”) is made and entered into between New Cingular Wireless PCS, LLC, an AT&T company (“AT&T”) and the City of Brownsville, Texas and the City Commission of Brownsville (collectively, the “City”). Collectively, AT&T and the City are referred to as the “Parties”.

RECITALS

WHEREAS, AT&T entered into a lease agreement for a proposed wireless telecommunications facility at the corner of Fish Hatchery Road and Expressway 77 in the city of Brownsville as described in the Application (the “Site”).

WHEREAS, on or about February 8, 2019, AT&T submitted to the City an application for a Specific Use Permit to allow for the construction and operation of a 150-foot tall wireless telecommunications facility (the “Proposed Facility”) at the Site (the “Application”).

WHEREAS, on or about May 1, 2019, the City’s Board of Adjustment voted to approve two variances from the City’s height and spacing requirements respectively.

WHEREAS, on or about May 2, 2019, the City’s Planning and Zoning Commission voted to recommend approval of the Application and to grant the Specific Use Permit.

WHEREAS, on May 7, 2019, the City held a City Commission meeting during which the City conducted a public hearing on AT&T’s Application.

WHEREAS, the City voted to deny AT&T’s Application.

WHEREAS, AT&T has alleged that the City failed to provide a timely, written decision supported by substantial evidence.

WHEREAS, AT&T, through the captioned proceeding, timely appealed the City’s denial of its Application under the federal Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7) (the “Litigation”).

WHEREAS the City has entered into a separate Settlement Agreement with AT&T in the Litigation, and pursuant to that Settlement Agreement, the Court entered an Order and Judgment against the City on April 1, 2020.

WHEREAS while the City has agreed to issue a Specific Use Permit to AT&T pursuant to the Settlement Agreement and the Court’s Order and Judgment, AT&T will need additional permits and approvals from the City, including without limitation the Building Permit before it is able to construct the Proposed Facility (collectively, the “Additional Permits”).

WHEREAS pursuant to the Court’s Order and Judgment, the City has agreed to the expedited processing of the Additional Permits and AT&T will not be required to adhere with the
standard requirements of the City’s regular application, public posting, and public hearing
requirements, if applicable for such Additional Permits.

NOW THEREFORE, in consideration of the mutual covenants and promises hereinafter
made, and for good and valuable consideration, the receipt and sufficiency of which are mutually
acknowledged, the parties agree as follows:

1. **Incorporation of Recitals.** The definitions set forth in the foregoing recitals are an
   integral part of this Agreement and are incorporated herein by reference.

2. **Effective Date.** The Effective Date of this Agreement shall be on the last date on
   which any of the Parties executes this Agreement.

3. **Reimbursement by AT&T.** After the City’s approval and issuance of the Additional
   Permits, AT&T shall reimburse the City up to $10,000.00 (evidenced by documentation delivered
   by the City to AT&T), within thirty (30) days of receipt of documentation for the administrative
   fees and costs associated with the expedited processing of the Additional Permits, to include but
   not limited to, reimbursement for fees for rush processing and attorney’s fees associated with said
   process, so that the Additional Permits can be issued to AT&T in an expeditious manner in order to
   comply with this Agreement, the Settlement Agreement and the Court’s Order and Judgment.

4. **Additional Permits.** The City shall provide AT&T with all necessary and required
   permits, approvals, and agreements needed to construct the Proposed Facility, including without
   limitation the Building Permit, without undue or unreasonable delay and in accordance with
   the following schedule: To the extent not already accomplished, AT&T will submit construction
   drawings for a building permit for the Proposed Facility (the “Building Permit Submittal”). Within
   seven (7) days after submission by AT&T of the Building Permit Submittal, the City Building
   Official shall review and evaluate the Building Permit Submittal in good faith and shall either issue
   the building permit for the Proposed Facility (the “Building Permit”) or shall specifically identify
   the changes necessary for the issuance of the Building Permit. If the City Building Official does
   not issue the Building Permit after the initial submission, within seven (7) days after AT&T
   responds to the City Building Official’s initial comments, the City Building Official shall review
   in good faith AT&T’s responsive submission and shall either issue the Building Permit or shall
   specifically identify the grounds for denying the Building Permit Submittal.

   If, pursuant to this paragraph 4, the City Building Official does not issue the Building
   Permit, AT&T may pursue any and all remedies available to it in a court of competent jurisdiction,
   including those set forth in the Settlement Agreement and/or Order and Judgment.

5. **Severability.** If any term or provision of this Agreement is determined by a court
   of competent jurisdiction to be unenforceable or contrary to any applicable law or policy, such
   term or provision shall be effective to the maximum extent permitted by law and the same shall
   not affect any other term or provision of this Agreement, which shall otherwise remain in full force
   and effect.

6. **Entire Agreement.** This Agreement constitutes the entire agreement between the
   Parties concerning approvals and permits associated with the Application other than the Specific
Use Permit at issue in the Litigation and supersedes and terminates any previous agreements or understandings between them in this regard.

7. **Choice of Law.** This Agreement shall be interpreted and enforced in accordance with the laws of the State of Texas, without giving effect to its conflict of laws provisions, and any litigation relating to this Agreement shall take place solely and exclusively within the State of Texas. The Parties agree to submit to the jurisdiction of the United States District Court for the Southern District of Texas for any such litigation.

8. **Execution in Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which together shall comprise a single agreement.

9. **Authority to Execute.** The undersigned warrant that they are fully authorized to execute this agreement on behalf of their principals.

[SIGNATURES ON FOLLOWING PAGE]
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives and to be effective on the Effective Date.

NEW CINGULAR WIRELESS PCS, LLC

By: ___________________________ Date: ___________________________
Its: ___________________________

THE CITY OF BROWNSVILLE, TEXAS

By: ___________________________ Date: ___________________________
Its: ___________________________

THE CITY COMMISSION OF THE CITY OF BROWNSVILLE

By: ___________________________ Date: ___________________________
Its: ___________________________
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

NEW CINGULAR WIRELESS PCS,
LLC

PLAINTIFF,

v. CIVIL ACTION NO.: 1:19-cv-00091

THE CITY OF BROWNSVILLE,
TEXAS and THE CITY COMMISSION
OF THE CITY OF BROWNSVILLE
Defendant.

SETTLEMENT AGREEMENT

Plaintiff New Cingular Wireless PCS, LLC, an AT&T company (“AT&T”) and Defendants
the City of Brownsville, Texas and the City Commission of the City of Brownsville (collectively,
“Defendants” or the “City”), hereby agree as follows:

WHEREAS, AT&T entered into a lease agreement for a proposed wireless
telecommunications facility at the corner of Fish Hatchery Road and Expressway 77 in the city of
Brownsville as described in the Application (the “Site”).

WHEREAS, on or about February 8, 2019, AT&T submitted to the City an application for
a Specific Use Permit to allow for the construction and operation of a 150-foot tall wireless
telecommunications facility (the “Proposed Facility”) at the Site (the “Application”).

WHEREAS, on or about May 1, 2019, the City’s Board of Adjustment voted to approve
two variances from the City’s height and spacing requirements respectively.

WHEREAS, on or about May 2, 2019, the City’s Planning and Zoning Commission voted
to recommend approval of the Application and to grant the Specific Use Permit.

WHEREAS, on May 7, 2019, the City held a City Commission meeting during which the
City conducted a public hearing on AT&T’s Application.
WHEREAS, the City voted to deny AT&T’s Application.

WHEREAS, AT&T has alleged that the City failed to provide a timely, written decision supported by substantial evidence.

WHEREAS, AT&T, through the captioned proceeding, timely appealed the City’s denial of its Application under the federal Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7) (the “Litigation”).

WHEREAS, the Court in the Litigation has subject matter jurisdiction over the dispute pursuant to 47 U.S.C. § 332(c)(7)(13) and 28 U.S.C. § 1331, the Court is authorized to issue declaratory relief pursuant to 28 U.S.C. §§ 2201-2202, and venue is proper.

WHEREAS, as a result of the discussions between the parties, AT&T and the City have come to an agreement whereby the City has agreed to approve, as the least intrusive means of closing AT&T’s significant gap in wireless service, a Specific Use Permit for AT&T to construct the Proposed Facility at the Site in the same location as proposed in the Application, as set forth in the Project Drawing Plans attached hereto as Exhibit A and incorporated herein.

WHEREAS, the parties now desire to settle the Litigation to permit the Court-ordered construction and operation of a wireless communications facility at the Site in Brownsville subject to and on the terms set forth herein.

WHEREAS, there is no just cause for delay and remand would serve no useful purpose.

NOW THEREFORE, the parties agree to undertake all necessary actions and fulfill all applicable requirements under federal, state, and local law on an expedited time frame including but not limited to the following:

1. At the duly noticed March 17, 2020 public meeting of the City Commission, the City Commission will (a) consider and approve the Settlement Agreement and the Order and
 Judgment, which are attached hereto as Exhibits 1 and 2, and (b) authorize the City Manager to take all actions and execute all documents as may be reasonably necessary to carry out the terms of this Settlement Agreement and the Order and Judgment.

2. AT&T will then execute this Settlement Agreement and Order and Judgment.

3. AT&T will submit the Order and Judgment in the District Court in the Litigation within 10 days after execution of this Settlement Agreement by both parties.

4. Within 10 days of entry of the Order and Judgment by the Court, the City will issue final zoning approval in the form of the Specific Use Permit for the facility applied for and proposed in the Application. In addition, the City will cooperate to the extent necessary to provide any and all additional approvals for, or documents or information about, the Proposed Facility as may be required for the AT&T to obtain any and all necessary permits and approvals, including but not limited to a Building Permit for the Proposed Facility. AT&T reserves the right to invoke the Court’s continuing jurisdiction pursuant to the Order and Judgment, and proceed with the Litigation in the event that the City fails to provide such approvals, documents or information as may be required. Pursuant to the Court’s Order and Judgment, Defendants are ordered to grant AT&T’s Application and issue the Specific Use Permit expeditiously without the standard requirement of having AT&T adhere to the City’s regular application, public posting, and public hearing requirements.

5. The parties agree to support the terms of this Settlement Agreement and the Order and Judgment, and to take all actions and execute all documents as may be reasonably necessary to carry out the terms of this Settlement Agreement and the Order and Judgment.

6. Each party represents and warrants that this Settlement Agreement has been duly authorized by all necessary votes, actions, and other requirements of AT&T and the City and
constitutes a legal, valid and binding obligation in accordance with its terms, and that no consent or permission related to the obligations assumed by this Settlement Agreement is required under any covenant, agreement, or encumbrance or under any law or regulation of any governmental entity or jurisdiction.

7. The rights and obligations of the parties to this Settlement Agreement shall be construed and enforced in accordance with the Telecommunications Act and, subject thereto, in accordance with the laws of the State of Texas.

8. This Settlement Agreement constitutes the entire agreement with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions.

9. AT&Ts and the City agree to cooperate and to act in good faith to achieve the terms of this Settlement Agreement.

10. The individuals executing this Settlement Agreement on behalf of the respective parties have express and lawful authority to do so, and it may be executed in counterparts.

11. The Effective Date of this Agreement shall be on the last date on which any of the Parties executes this Agreement.

PLAINTIFF NEW CINGULAR
WIRELESS PCS, LLC

By: ________________________________

Date: ______________________________

4
DEFENDANT THE CITY OF
BROWNSVILLE, TEXAS

By: ________________________________

Date: ______________________________

DEFENDANT THE CITY COMMISSION
OF THE CITY OF BROWNSVILLE

By: ________________________________

Date: ______________________________
EXHIBIT 1

TO SETTLEMENT AGREEMENT
EXHIBIT 2
TO SETTLEMENT AGREEMENT
ORDINANCE NUMBER 235-2019-011-S

AN ORDINANCE AMENDING THE "CITY ZONING ORDINANCE" BY AMENDING THE OFFICIAL ZONING ATLAS; AND DEALING WITH RELATED MATTERS INCLUDING $2000 PENALTIES.

WHEREAS, this ordinance is in accordance with the City's comprehensive plan; is consistent with the existing zoning surrounding the area to be rezoned; and bears a substantial relationship to the public health, safety, morals or general welfare; and all procedural requirements for the passage hereof have been met;

Be It Ordained by the City of Brownsville:

Section 1. That the City Commission of the City of Brownsville, Texas, hereby amends the "City Zoning Ordinance" by amending the Official Zoning Atlas so to allow a wireless communication facility, a General Retail (4C) use, in Light Industrial "I" (7CJ) for a 1.67 acre tract of land in Lot 1, R.A. Lieck Estate, Partition Share 22, Espiritu Santo Grant, Cameron County, Texas, located near the corner of Fish Hatchery Road and Expressway 77, Brownsville, Texas 78520, as shown in Exhibit "A"; the area rezoned by this amendment being situated entirely within the corporate limits of Brownsville, Cameron County, Texas.

Section 2. That the area rezoned by this amendment shall continue to be subject to all applicable regulations.

Section 3. That whenever one provision of this ordinance conflicts with another provision of this ordinance, the provision which governs shall be the one listed sooner on the following list: Section 3 of this ordinance, Section 2 of this ordinance, Section 1 of this ordinance.

Section 4. That all provisions of Section 348 of the City Zoning Ordinance are incorporated herein by reference and declared to be a part hereof, and that this ordinance shall become effective on the earliest date allowed by law.

Section 5. Specific Use shall be valid for one year from the passage of this ordinance. If no construction occurs within one year from the time of passage the specific use permit shall be null and void.


(SEAL)

BY: ____________________________
Juan "Trey" Mendez III
Mayor

ATTEST:________________________
Griselda Rosas
Interim City Secretary

"Approved as to Form and Legality
This 13th day of April 2020
Title: Office of the Brownsville City Attorney"
ORDINANCE NUMBER 235-2019-011-S

AN ORDINANCE AMENDING THE “CITY ZONING ORDINANCE” BY AMENDING THE OFFICIAL ZONING ATLAS; AND DEALING WITH RELATED MATTERS INCLUDING $2000 PENALTIES.

WHEREAS, this ordinance is in accordance with the City’s comprehensive plan; is consistent with the existing zoning surrounding the area to be rezoned; and bears a substantial relationship to the public health, safety, morals or general welfare; and all procedural requirements for the passage hereof have been met;

Be It Ordained by the City of Brownsville:

Section 1. That the City Commission of the City of Brownsville, Texas, hereby amends the “City Zoning Ordinance” by amending the Official Zoning Atlas so to allow a wireless communication facility, a General Retail (4C) use, in Light Industrial “J” (7CJ) for a 1.67 acre tract of land in Lot 1, R.A. Lieck Estate, Partition Share 22, Espiritu Santo Grant, Cameron County, Texas, located near the corner of Fish Hatchery Road and Expressway 77, Brownsville, Texas 78520, as shown in Exhibit “A”; the area rezoned by this amendment being situated entirely within the corporate limits of Brownsville, Cameron County, Texas.

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(SEAL)

BY: __________________________
Juan “Treý” Mendez III
Mayor

ATTEST: _______________________
Griselda Rosas
Interim City Secretary
Protested Case No. 235-2019-011-S
Results 20.57%

20.57% Area Protested
Property Owners Opposed
A. Application Information

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<th>Nurith Galonsky, Tally Galonsky, &amp; Jonathan Caplan</th>
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B. Application Type/Background

The applicant is requesting a Specific Use Permit to allow a wireless communication facility, a General Retail (4C) use, in Light Industrial “J” (7CJ).

C. Subject Property

The subject property is located on a 1.67 acre tract of land in Lot 1, R.A. Lieck Estate, Partition Share 22, Espiritu Santo Grant, Cameron County, Texas, located near the corner of Fish Hatchery Road and Expressway 77, Brownsville, Texas 78520. The property is fronting Expressway 77, a Highway. Single family dwelling is the predominant existing land use within the subject property’s immediate area. The subject property is located within Brownsville Public Utility Board’s (BPUB) water service area #2, which has several projects planned in 2020 including a new transmission main on FM 511 and improvements to 4 lift stations (LS 55, LS 86, LS 143, and LS 159) within a 4 mile radius of the subject property.

Existing land uses abutting the subject property are identified below and illustrated in Figure 2.

- North: Single Family Dwelling and Commercial Business
- East: Single Family Dwelling and Commercial Business
- South: Undeveloped Land, Single Family Dwelling, and Commercial Business
- West: Undeveloped Land and Single Family Dwelling

**Figure 1: Existing Zoning Map**

The following map illustrates existing zoning of the subject property and properties within the immediate area.

- North: Dwelling (D), Apartment (A), General Retail (4C), Medium Commercial (6C), and Light Industrial (7C)
- South: Dwelling (D), General Retail (4C), and Light Industrial (7C)
- East: Dwelling (D), General Retail (4C), and Light Industrial (7C)
- West: Dwelling (D), Apartment (A), and Light Retail (2C)
Figure 2: Existing Land Use Map

The following map illustrates existing land uses surrounding the subject property.
D. Future Land Plan Consistency

A review of the adopted City of Brownsville Comprehensive Plan and its Future Land Use Plan indicates that the subject property is located in the “Linkage Corridor”. According to this plan, the Linkage Corridor is primary commercial and institutional land uses. Residential uses should have a density of 6 dwellings per acre and should primarily be single family dwelling and attached townhouses. It is the opinion of staff that the request is consistent with the Comprehensive Plan and Future Land Use Plan.

**Figure 3: Future Land Use Map (Linkage Corridor)**

The following map illustrates the Future Land Use Map. The subject property lies within the “Linkage Corridor”.

---

**City of Brownsville**

**FUTURE LAND USE PLAN**

**DISTRICTS NAME**

- Core Central
- Core East
- Core West
- Downtown Enterprise
- Downtown Riverside
- Emerging City Central
- Emerging City East
- Emerging City West
- Employment Hub
- Future Employment Hub
- Reserve Future City
- Transition Central
- Transition East
- Transition West
- Water Management

**CORRIDORS**

- Gateway Corridor
- Linkage Corridor
- Loop Corridor
- Town Corridor

**NODES NAME**

- Downtown Node
- Primary Regional Node
- Secondary Regional Node
- Sub Regional Node
- Brownsville City Limits
- Brownsville’s ETJ Boundary

**Zoning Case No. 235-2019-011-S**
E. Review Criteria

*Is the proposed amendment consistent with all applicable provisions of the Comprehensive Plan and Future Land Use Plan?*

It is the opinion of staff that the request is consistent with the goals, objectives, and policies of the Comprehensive Plan and Future Land Use Plan.

*Will the proposed district amendment be compatible with the character of the existing land uses in the adjacent and surrounding area and the peculiar suitability of the property for the proposed zoning use?*

The area surrounding the subject property is developed primarily of single family dwelling. It is the opinion of staff that the proposed zoning/use would generally be compatible.

*Will the proposed amendment result in significant or burdensome demands on existing public facilities?*

It is the opinion of staff that the proposed zoning/use would not create significant or burdensome demands on public facilities such as water, wastewater, or transportation.

*Will the proposed amendment result in logical, timely and orderly development patterns that preserve the value of existing development?*

It is the opinion of staff that the proposed zoning/use would generally complement existing development and would not have adverse impacts on the area.

F. Staff Recommendation

Based upon the analysis presented in this report and based on observations from the Planning and Development Services Department, staff recommends to allow a wireless communication facility, a General Retail (4C) use, in Light Industrial “J” (7CJ).
Consideration and ACTION to approve an Interlocal Agreement between the City of Harlingen and the City of Brownsville to assist in the detection and mitigation efforts for the current worldwide COVID-19 pandemic by participation in the Drive-Thru Testing Site (City Manager's Office).

**Information:** Please include additional information/request.

### Executive Session (City Attorney Only)

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### Reviewing Departments:

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### Assistant City Manager

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### City Manager’s Approval

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Revised 3/2019
To: Mayor Mendez and City Commission

Through: Noel Bernal, City Manager

From: Dr. Arturo Rodriguez, DNP, MPH, CPM, Public Health and Wellness Director

Date: April 23, 2020

Agenda: Consideration and ACTION to approve an Interlocal Agreement between the City of Harlingen and the City of Brownsville to assist in the detection and mitigation efforts for the current worldwide COVID-19 pandemic by participation in the Drive-Thru Testing Site.

Summary:

The US Secretary of Health and Human Services declared a public health emergency beginning January 2, 2020. On March 13, 2020, Governor Abbott of Texas declared a State of Disaster in Texas due to COVID-19; and a local state of emergency was declared by both the City of Harlingen and City of Brownsville (COB) on March 17, 2020.

Both cities believe it is mutually beneficial to establish an interagency cooperation to assist in the detection and mitigation efforts for the current worldwide COVID-19 crisis pandemic through the City of Harlingen’s participation in the existing Drive-Thru Testing Site that is currently being operated by the COB.

The parties will consult and coordinate with one another through their respective point of contacts as the current pandemic crisis evolves in an effort to flatten the curve by providing much needed testing to the both communities.

For each Harlingen resident, whether insured or uninsured, receiving a COVID-19 test, a $43.00 cost share reimbursement fee applies. Our present operational costs include COVID-19 drive-thru site, Personnel Protective Equipment (PPE), supplies, personnel and capital equipment. The city of Harlingen cost share obligations under this contract would reduce our operational costs and enable us to have some cost recovery of the Covid-19 drive-thru.

For each uninsured Harlingen resident who is tested for COVID-19 at drive-thru an agreed rate of $110.00 per test will be reimbursed to the city of Brownsville.

For each Harlingen resident, whether insured or uninsured, receiving a COVID-19 test, the amount of $15.00 for administration in verifying Harlingen residency, questionnaire accuracy, referrals, and the existence of health insurance. This fee is applied and collected by the contractor, Valley Med Urgent Care.
For each Harlingen resident, having had a submission/questionnaire reviewed and not eligible to be selected for COVID-19 testing, the amount of $5.00 for processing the submission/questionnaire review. This fee is applied and collected by the contractor, Valley Med Urgent Care.

City of Brownsville, Texas

1001 E. Elizabeth St., P.O. Box 911, Brownsville, Texas 78522 Telephone: 956-548-6007 Fax: 956-546-4021 www.cob.us
INTERLOCAL AGREEMENT

THE STATE OF TEXAS §

COUNTY OF CAMERON §

This Interlocal Agreement (this “Agreement”) is entered into by and among the City of Harlingen, Texas (sometimes referred to as “Harlingen”), and the City of Brownsville, Texas (sometimes referred to herein as “Brownsville”), both of which are home-rule municipal corporations situated in Cameron County, Texas, and are acting by and through their respective City Managers (collectively sometimes referred to as the “Parties”).

WHEREAS, Chapter 791 of the Texas Government Code authorizes contracts between political subdivisions for the performance of governmental functions and services; and

WHEREAS, as a result of confirmed cases of 2019 Novel Coronavirus (COVID-19), the US Secretary of Health and Human Services declared a public health emergency exists and has existed since January 27, 2020, nationwide; and the Governor of the State of Texas on March 13, 2020 declared a State of Disaster in Texas due to COVID-19; and a local state of emergency was declared by the City of Harlingen and the City of Brownsville on March 17, 2020, and extended by their respective governing bodies; and

WHEREAS, the Parties wish to establish interagency cooperation as the Parties require additional resources to assist in the described activities and efforts in the detection and mitigation efforts for the current worldwide health crisis and pandemic identified as COVID-19;

WHEREAS, the Parties find that this cooperative agreement to assist the public and the taxpayers in the detection and mitigation efforts for the current worldwide COVID-19 health crisis and pandemic and is adequate consideration to support this Interlocal Agreement;

NOW THEREFORE, in consideration of the mutual contributions described herein and the mutual covenants and undertakings of the parties, the receipt and sufficiency is hereby acknowledged, the City of Harlingen and the City of Brownsville agree as follows:

I. OBLIGATIONS OF BOTH PARTIES:
   a. Designated Liaisons. Each party will assign a responsible liaison and point of contact (“POC”) to coordinate, oversee and facilitate the implementation of the Program. The parties hereby designate the following POC under this Agreement:

   CITY OF HARLINGEN
   Josue “Josh” Ramirez, Ph.D., MPA, CPM
   Director, City Health Department
   502 E. Tyler Ave.
   Harlingen, Texas 78550
   (956) 216-5220
   jramirez@myharlingen.us

   CITY OF BROWNSVILLE
   Arturo“Art” Rodriguez, D.N.P., MPH, CPM
   Director, Public Health
   1034 E. Levee St., 2nd Floor
   Brownsville, Texas 78520
   (956) 542-3437
   art.rodriguez@cob.us
b. The Parties will consult and coordinate with each other through their respective POCs. As the current pandemic crisis evolves, the Parties will continue to confer regarding the objectives of this Agreement and amend if necessary to better carry out its public purpose.

c. Both parties agree to use a mutually agreed upon test kit(s) that is/are acceptable for use by each party and the third party provider Valley Med Urgent Care PLLC.

II. CITY OF BROWNSVILLE OBLIGATIONS

a. The City of Brownsville shall be responsible for providing the necessary testing and safety facility/facilities, personnel, and equipment, including a third party agreement with a medical facility/institution such as Valley Med Urgent Care PLLC, ("Facility" or "Facilities" as may be appropriate) for COVID-19 testing as provided by this Agreement. The Facility or Facilities shall be established at the location(s) at the City of Brownsville’s Sports Park located at 1000 Sports Park Blvd, Brownsville, TX 78526, if relocation of testing site is required, both parties will mutually agree upon new location within the City of Brownsville.

b. Brownsville shall be responsible for following and complying with:
   i. Any and all laws, regulations, guidance, and criteria promulgated by the Centers for Disease Control (CDC), and Cameron County, Texas, which are applicable to facility preparation and maintenance, the provision of testing to individuals, and other actions necessary for and incidental to the test of COVID-19; the regulations, guidance, and criteria for which are incorporated herein by reference and as may be amended after the date of this Agreement; and
   ii. Privacy and confidentiality interests as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable federal and state law in the COVID-19 live case incidence reporting to the Cameron County Health Department, the invoicing to the City of Harlingen for uninsured residents, and in the processing of related medical documents and records.

c. Brownsville shall, through a third party medical facility/institution such as Valley Med Urgent Care PLLC, provide COVID-19 testing for Harlingen residents who have been either been referred by a physician and competed the required online questionnaire or completed an online questionnaire and are determined to be eligible for testing at the drive-thru test site located at the City of Brownsville’s Sports Park, and shall verify (i) Harlingen residency through driver’s license, state identification card, student ID, or other acceptable official means of identification; (2) the accuracy of questionnaire completion; and (3) verify whether the Harlingen resident has health insurance which will cover the cost of the COVID-19 test.

d. For Harlingen residents whose COVID-19 testing costs are not covered by insurance, Brownsville shall invoice the City of Harlingen upon completion of the test(s), on a monthly basis, to the attention of the POC provided herein.

e. The Brownsville Point of Contact shall provide daily updates to the City of Harlingen Point of Contact.

f. The City of Brownsville is capable of adding to our reports a map containing the positive case locations of those citizens which have been tested at the Brownsville Drive-Thru
Testing site at the Sports Park. The map is intended to inform policy makers and decision makers within the city, empowering them to make informed decisions as it pertains to the safety and health of their citizens. The city of Brownsville’s mapping capabilities will allow decision makers to identify hotspots and cluster formations within their city. The map can act as an additional assessment tool to measure the impact of COVID on the community and act as a supplemental guide, allowing the city to conserve valuable resources while implementing mitigation strategies target toward your most vulnerable populations. In addition, the map is updated as new cases are identified through the Drive Thru testing site. This grants decision makers the ability to make timely decisions based on real time data, providing the opportunity to respond as the virus moves. It is important to note that the data contained will be personal medical information and as such, falls under HIPAA guidelines and is not intended for the public’s consumption.

III. CITY OF HARLINGEN OBLIGATIONS

a. Subject to receipt of the invoice and substantiating documentation as required under this Agreement and the applicable laws and regulations referenced herein, the City of Harlingen will reimburse Brownsville for the services provided by Brownsville under this Agreement no later than thirty (30) calendar days after Harlingen’s receipt of the invoice and substantiating documentation.

b. Upon receipt of invoice as provided in III(a), Harlingen will reimburse Brownsville:
   i. For each uninsured Harlingen resident receiving a COVID-19 test at the Facility/Facilities, $110.00;
   ii. For each Harlingen resident, whether insured or uninsured, receiving a COVID-19 test at the Facility/Facilities, the amount of $43.00 to help with funding the necessary testing and safety Facility/Facilities, personnel, and equipment for COVID-19 testing; and
   iii. For each Harlingen resident, whether insured or uninsured, receiving a COVID-19 test, the amount of $15.00 for administration in verifying Harlingen residency, questionnaire accuracy, referrals, and the existence of health insurance.
   iv. For each Harlingen resident, having had a submission/questionnaire reviewed and not eligible to be selected for COVID-19 testing, the amount of $5.00 for processing the submission/questionnaire review.

c. The City of Harlingen agrees to enter into a separate HIPAA Business Associate Agreement with Valley Med Urgent Care PLLC and the City of Brownsville for sharing of data with UT Health, School of Public Health, for the creation of a Vulnerability Index and additional Mapping, as appropriate.
IV. INITIAL TERM AND RENEWAL
   a. The Effective Date of this Agreement is the date this Interlocal Agreement is last approved by the City of Harlingen and City of Brownsville respective City Commissions ("Effective Date") as reflected in the signatures to this Agreement. Thereafter, this Agreement shall be in effect for six (6) months beginning on the Effective Date, unless terminated by either Party in writing upon thirty (30) days’ written notice signed by duly authorized representatives of each of the Parties in accordance with the same provisions set in this Agreement.

V. OTHER PROVISIONS
   a. For purposes of determining the law governing the same, this Agreement is entered into in the city and state of main operations of the Parties hereto, and shall be governed by the laws of the State of Texas. Venue shall be in Cameron County, Texas.
   b. The Parties reserve, and do not waive, their respective rights of governmental and/or sovereign immunity and similar rights and do not waive their rights under the Texas Tort Claims Act. The parties expressly agree that neither party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its powers or functions or pursuant to the Texas Tort Claims Act or other applicable statutes, laws, rules, or regulations.
   c. This agreement constitutes the entire Agreement between the Parties, and neither Party is relying on any outside or extraneous agreements or representations. To the extent any provision of this Agreement may be deemed invalid by a court of appropriate jurisdiction, the remaining provisions shall remain intact.

This Interlocal Agreement has been agreed to and is hereby effective on the later date of signature below:

CITY OF HARLINGEN

____________________________
Dan Serna, City Manager

____________________________
Date

CITY OF BROWNSVILLE

____________________________
Noel Bernal, City Manager

____________________________
Date

ATTEST:

____________________________
Mayra Herrera, Assistant City Secretary

ATTEST:

____________________________
Griselda Rosas, Interim City Secretary
TO: Noel Bernal, City Manager  
FROM: Ramiro Gonzalez, Director of Government Affairs  
SUBJECT: Mitte Foundation License Agreement  
DATE: 4/21/2020  
THROUGH:

AGENDA ITEM COMMISSION MEETING DATE 04/28/20

<table>
<thead>
<tr>
<th>Executive Session (City Attorney Only)</th>
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**Information:** Please include additional information/request.

Consideration and Action on License Agreement with Mitte Foundation for Linear Park Improvements.

**Reviewing Departments:** Please review and forward to the next reviewing department in a timely manner.

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<th>City Attorney</th>
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**City Manager’s Approval**

| Signature: | Date: |
To: Mayor and City Commission
Through: Noel Bernal, City Manager
From: Ramiro Gonzalez, Director of Government & Community Affairs
Date: April 24, 2020
Agenda: Consideration and ACTION on a License Agreement with Mitte Foundation for Linear Park Improvements.

Summary

The Mitte Foundation has purchased and demolished the Jackson feed store on 7th and Ringgold. They are planning to develop a Community Center and with that are proposing landscape improvements to Linear Park. The License agreement provides the necessary documentation to allow for those improvements and also describes the long-term relationship between the City and Mitte foundation with regards to those improvements.
LICENSE AGREEMENT

This Agreement is made and executed effective this ___ day of __________________ 2020, by and between the City of Brownsville and the Mitte Foundation.

WHEREAS, the Mitte Foundation has expressed a desire to enhance a particular area generally located between Ringgold Street, E. 7th Street, Frontage Road and E. 6th St. for the creation of a cultural park, on which a particular tract of real property located between this general description belongs to the City of Brownsville and is also known as the Historic Battlefield Trail, located in Brownsville, Cameron County, Texas; and

WHEREAS, the Mitte Foundation has requested a license Agreement to use City of Brownsville real property, consisting of fee-owned property, rights-of-way and easements held by the City of Brownsville, which either lies adjacent to or is anticipated to be part of a cultural park of the foregoing-described enhancements, with which permission seeks to build and maintain concrete/asphalt hike and bike paths, landscaped areas (trees, grass, gardens, etc.), sidewalks, benches, canopies, gazebos, street lights, brick pavers, water fountains and/or related improvements, which would run along, aside or across City property, and

WHEREAS, the City of Brownsville is in agreement that a license shall be granted to the Mitte Foundation pursuant to the following terms and conditions:

NOW, THEREFORE, in consideration of the promises, covenants and warranties hereafter made by the Mitte Foundation, the City of Brownsville does hereby agree to the following:

1. Granting of a License. The City of Brownsville does hereby grant a license to the Mitte Foundation for the exclusive purpose of establishing and maintaining a cultural park consisting of concrete/asphalt hike and bike paths, landscaped areas (trees, grass, gardens, etc.), sidewalks, benches, canopies, gazebos, street lights, brick pavers, water fountains and/or related improvements (hereafter called improvements). The licensed area (and improvements) is graphically depicted in attached exhibit “A”, which is incorporated herein for all purposes, with said licensed area to be specifically the tract of land the City of Brownsville owns within the description as generally described above and as illustrated in Exhibit A to this agreement. In consideration of the foregoing license, the Mitte Foundation agrees to construct the improvements at its sole expense, and in conformance with construction plans which must be submitted to the proper City of Brownsville authorities (Planning & Redevelopment Services) for approval. The Mitte Foundation will be solely responsible for the construction, operation and maintenance of the improvements constructed on or over City of Brownsville property including those described above and excluding public bathroom facilities and any public artwork/sculptures. Construction of said improvements shall not be designed or constructed in such a manner which would interfere with the use by the City of Brownsville of its own property or interfere with the existing Hike and Bike Trail which shall remain in place and undisturbed. During construction of the improvements, any
damages to the existing Hike and Bike trail will be repaired by the Mitte Foundation in a timely and professional manner, utilizing qualified companies and/or craftsmen to perform any work required. Maintenance of the existing Hike and Bike Trail will remain the responsibility of the City of Brownsville.

2. Upon approval by the Mitte Foundation of designs for public bathroom facilities, the Mitte Foundation will provide a grant for up to 50% of the cost of said improvements to the City of Brownsville. The funds are restricted to use for the construction of such facilities consistent with designs approved by the Mitte Foundation. The City of Brownsville at its sole discretion may forego the grant and approval by the Mitte Foundation and construct public bathroom facilities to its own specifications.

3. Upon mutual approval by the Mitte Foundation and the City of Brownsville for public artwork, sculptures, etc. in the licensed area, and upon approval of designs for such work, the Mitte Foundation will provide a grant for up to 50% of the cost of said improvements to the City of Brownsville. The funds are restricted to use for the construction of such improvements consistent with designs approved by the Mitte Foundation. All such work shall only be installed upon approval by both parties.

4. The cost for utilities for the licensed areas and improvements upon such areas shall be the responsibility of the City of Brownsville.

5. The City of Brownsville, Parks & Recreation Department, shall provide maintenance as follows: Mow/trim trail edge every 10 days or as needed - based on the season/rain. Maintain a natural foliage appearance (PARD does not fertilize or aerate along the trail) no ornamental plants, native/pollinators if any. Trash bins cleared every 3 days or as needed. Bougainvillea trimmed every 10 days (If Any). Flagpoles maintained and replaced as needed. Herbicide and Pest Control as needed. Weekly visual inspections for irrigation, drinking fountains, dog waste stations, benches, signage, and replaced/repai red as needed, unless a safety issue arises - ASAP. Additional care & upkeep shall be provided by the Mitte Foundation.

6. The Mitte Foundation, its designated agents, its heirs, executors, administrators, successors and assigns hereby agree to indemnify and hold harmless the City of Brownsville, its officials, officers, agents and employees, from any and all liabilities, claims, demands, actions, losses, damages, and costs, including all costs of defense thereof, or any nature whatsoever, for injury to or death of persons or loss or damage of property, or for any other reason, in any manner arising out of or connected with the use of the licensed area and specifically any improvements made by the Mitte Foundation.

7. The City of Brownsville will be responsible for any and all liabilities, claims, demands, actions, losses, damages, and costs, including all costs of defense thereof, or any nature whatsoever, for injury to or death of persons or loss or damage of property, or for any other reason, in any manner arising in the licensed area if not specifically connected to any improvements made by the Mitte Foundation.
8. The City of Brownsville shall notify the Mitte Foundation in writing of any concerns with regard to the upkeep or maintenance of the improvements. The Mitte Foundation shall address any concerns raised within 45 days of receiving written request and notice from the City of Brownsville. Failure to address written concerns of the City of Brownsville regarding the licensed area in the time prescribed shall constitute grounds for terminating the agreement. Notice of Intent to terminate the agreement, and specifying the cause, must be made in writing by the City of Brownsville to the Mitte Foundation. Final termination of this agreement under this section must be served in writing by the City of Brownsville to the Mitte Foundation.

9. The initial term of the License Agreement shall be ten (10) years, in consideration of the sizeable investment the Mitte Foundation intends to make in the development of the cultural park. Following the initial term, the Agreement shall automatically renew for 5 years, and will continue to auto-renew in 5 year increments unless either party wishes to terminate the agreement. Following the initial term, either party may terminate this License Agreement by giving the other party hereto written notice at least six (6) months prior to the termination date.

SIGNED this __________ day of ______________________, 2020

CITY OF BROWNSVILLE

By: ____________________________
Noel Bernal, City Manager

MITTE FOUNDATION

By: ____________________________
Coleith Molstad, Executive Director

ATTEST:

By: ____________________________
City Secretary

[Stamp: "Approved as to Form and Legality This 23rd day of April, 2020. Title: CA/Office of the Brownsville City Attorney"]
ACKNOWLEDGMENTS

STATE OF TEXAS §
COUNTY OF CAMERON §

This document was acknowledged before me by Noel Bernal, City Manager of the City of Brownsville, Texas on behalf of said entity, on this the ________ day of ______________________, 2020.

__________________________________
Notary Public in and for the State of Texas

STATE OF TEXAS §
COUNTY OF CAMERON §

This document was acknowledged before me by Coleith Molstad, Executive Director of the Mitte Foundation, on this the ________ day of January, 2020.

__________________________________
Notary Public in and for the State of Texas
AGENDA ITEM COMMISSION MEETING DATE 04/28/20

Executive Session (City Attorney Only) Select Agenda Ordinance
Time Needed: Time Needed: Public Hearing First Reading
Action Item: Contract
Grant
Action
Consent

Information: Please include additional information/request.

Consideration and ACTION to accept a Grant under the Coronavirus Air, Relief, and Economic Security Act (Public Law 116-136) in the amount of $1,857,797.00 from the Federal Aviation Administration for the Brownsville South Padre Island International Airport. (Airport Department)

Reviewing Departments: Please review and forward to the next reviewing department in a timely manner.

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<td>Finance Department</td>
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City Commission Assistant City Manager Deputy City Manager
Approved: Yes No Approved: Yes No Approved: Yes No
Date: Initials: Date: Initials: Date:

City Manager’s Approval

Signature: Date:

TO: Noel Bernal, City Manager
FROM: Shawn Schroeder, AAE, Assistant Director of Aviation
SUBJECT: CARES Act Grant Award
DATE: 4/28/2020
THROUGH:

5.
To: Mayor and City Commission
Through: Noel Bernal, City Manager
From: Shawn Schroeder, AAE, Assistant Director of Aviation
Date: April 28, 2020
Agenda: Consideration and ACTION to accept a Grant under the Coronavirus Air, Relief, and Economic Security Act (Public Law 116-136) in the amount of $1,857,797.00 from the Federal Aviation Administration for the Brownsville South Padre Island International Airport. (Airport Department)

Summary:
As announced by the Secretary of Transportation on April 14, 2020, Brownsville South Padre Island International Airport is eligible for funds under the Coronavirus Air, Relief, and Economic Security Act (Public Law 116-136). This grant will assist the airport address the COVID-19 public health emergency. The FAA has given airports (3) three options to fund, (1) operational expenses (2) development or land acquisition projects, or (3) combination of items (1) and (2).

The airport has elected to utilize these funds for operational expenses, as we will experience a revenue shortfall from COVID-19. Attached is the Application for Federal Assistant (OMB-2) for the CARES Act in the amount of $1,857,797.00.

Approval:
Brownsville South Padre Island International Airport recommends approval of the grant in the amount of $1,857,797.
TO: Noel Bernal, City Manager  
FROM: Shawn Schroeder, AAE, Assistant Director of Aviation  
SUBJECT: Airport - CARES Act Grant  
DATE: 4/21/2020  
THROUGH: Bryant Walker, AAE, ACM/Airport Administrator

MEMO

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**Information:** Please include additional information/request.

As announced by the Secretary of Transportation on April 14, 2020, Brownsville South Padre Island International Airport is eligible for funds under the Coronavirus Air, Relief, and Economic Security Act (Public Law 116-136). This grant will assist the airport address the COVID-19 public health emergency. The FAA has given airports (3) three options to fund, (1) operational expenses (2) development or land acquisition projects, or (3) combination of items (1) and (2).

The airport has elected to utilize these funds for operational expenses, as we will experience a revenue shortfall from COVID-19. As part of the budget the airport would like to provide an additional "Airport Fund" line item to carry over excess grant funds into next year. Attached is the Application for Federal Assistant (OMB-2) for the CARES Act in the amount of $1,857,797.00 for your review and signature.

**Reviewing Departments:** Please review and forward to the next reviewing department in a timely manner.

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<td>Comments:</td>
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**Finance Department**  
Date Reviewed: 4/21/2020  
By: Lupe Granado III  
Comments: in agreement to use funds for Airport operations.

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<tr>
<th>City Commission</th>
<th>Assistant City Manager</th>
<th>Deputy City Manager</th>
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City Manager's Approval

Signature: Date:

Revised 3/2019
Application for Federal Assistance SF-424

*1. Type of Submission:
- [ ] Preapplication
- [x] Application
- [ ] Changed/Corrected Application

*2. Type of Application
- [x] New
- [ ] Continuation
- [ ] Revision
- * If Revision, select appropriate letter(s):

*3. Date Received:
NA

4. Applicant Identifier:
BRO (Brownsville/South Padre Island International) Brownsville, TX

*5b. Federal Entity Identifier:
480031

*5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

*a. Legal Name: City of Brownsville

*b. Employer/Taxpayer Identification Number (EIN/TIN):
74-6000422

*c. Organizational DUNS:
07-461-5097

d. Address:

*Street 1: __________________________
Street 2: __________________________
*City: BROWNSVILLE
County: __________________________
*State: TX
Province: __________________________
*Country: USA: United States
*Zip / Postal Code: __________________________

e. Organizational Unit:

Department Name: __________________________
Division Name: __________________________

f. Name and contact information of person to be contacted on matters involving this application:

Prefix: __________________________
*First Name: Bryant

Middle Name: __________________________

*Last Name: Walker

Suffix: __________________________

Title: Airport Director

Organizational Affiliation:

*Telephone Number: 956-642-4373
Fax Number: __________________________

*Email: bryant.walker@cob.us

Expiration Date: 12/31/2022
Application for Federal Assistance SF-424

*9. Type of Applicant 1: Select Applicant Type:
   X. Airport Sponsor

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

*Other (Specify)

*10. Name of Federal Agency:
   Federal Aviation Administration

11. Catalog of Federal Domestic Assistance Number:
   20.106
   CFDA Title:
   Airport Program

*12. Funding Opportunity Number:
   NA

*Title:
   NA

13. Competition Identification Number:
   NA
   Title:
   NA

14. Areas Affected by Project (Cities, Counties, States, etc.):

*15. Descriptive Title of Applicant’s Project:
   Any purpose for which airport funds may be lawfully used, as found in the Office of Airports Revenue Use Policy, except airport development or land acquisition.

Attach supporting documents as specified in agency instructions.
**Application for Federal Assistance SF-424**

16. Congressional Districts Of:

| *a. Applicant: 27 | *b. Program/Project: |

Attach an additional list of Program/Project Congressional Districts if needed.

17. Proposed Project:

| *a. Start Date: NA | *b. End Date: NA |

18. Estimated Funding ($):

| *a. Federal | $1,857,797. |
| *b. Applicant | $0 |
| *c. State | $0 |
| *d. Local | $0 |
| *e. Other | $0 |
| *f. Program Income | $0 |
| *g. TOTAL | $1,857,797. |

19. Is Application Subject to Review By State Under Executive Order 12372 Process?

- [ ] a. This application was made available to the State under the Executive Order 12372 Process for review on ______.
- [ ] b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- [x] c. Program is not covered by E. O. 12372

20. Is the Applicant Delinquent On Any Federal Debt? (If ‘Yes’, provide explanation in attachment.)

- [ ] Yes
- [x] No

If ‘Yes’, provide explanation and attach

21. By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U. S. Code, Title 218, Section 1001)

- [x] ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**

| Prefix: | | *First Name: Bryant |
| Middle Name: | | |
| *Last Name: Walker | | |
| Suffix: | | |

| *Title: Airport Director |
| *Telephone Number: 956-542-4373 | Fax Number: |
| *Email: bryant.walker@cob.us |

| *Signature of Authorized Representative: | *Date Signed: |
e-Signature Grant Sponsor Request Form

FAA Airports Division (ARP) is offering e-signature for all FY 2020 grants via Adobe e-Signature. This will expedite the process so that airport Sponsors receive grants as quickly as possible. If you would like to receive your FY 2020 grant via email for e-signature, please complete this form.

Sponsors do not need any special software to sign grants electronically.

Documents are emailed in the order specified below, and only one signature is required for each step (known as a signature block) in the process. The request for signature is sent by email, sequentially after the signature from the previous block is complete.

For each signature block, a Sponsor may submit more than one individual to have an equal right to sign, however only one signature is applied. For example, two Sponsor names can be entered under the Sponsor signature block, a primary and back-up, however only one will be able to sign.

If an airport has co-sponsors, the airport co-sponsors will need to fill out the Sponsor, Attorney, Co-Sponsor and Co-Sponsor Attorney signature blocks.

If an airport has more than two sponsors, the sponsors need to indicate this in the space provided at the end of the form.

When the e-signature process is complete, everyone, including the individuals listed below that did not sign, will receive an email copy of the signed document.

<table>
<thead>
<tr>
<th>Airport Name</th>
<th>City</th>
<th>State</th>
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Sponsor Signature Block:

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<th>Full Name</th>
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Attorney Signature Block:

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Co-Sponsor Attorney Signature Block:

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CC Recipient — (Read-only access to grant — will receive email and copy of grant when grant submitted and completed)

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Please note, if you need multiple Sponsor signatures, or other exceptions, please explain below:
AGENDA ITEM 佣金会会议日期 04/28/20

Executive Session (City Attorney Only) | Select | Agenda | Ordinance
--- | --- | --- | ---
Time Needed: | Time Needed: | [ ] Public Hearing | [ ] First Reading
Action Item: | | [ ] Contract | [ ] Second Reading
| [ ] Grant | [ ] Action |
| [ ] Consent |

Information: 请包括额外的信息/请求。

Consideration and Action to vacate the prior City Commission action taken at the meeting of April 21, 2020 purporting to award the Anacua Street and Naranjo Road Pavement, Sidewalk, Driveway and Drainage Improvement Project to G & T Paving LLC and award the project to the lowest responsive and responsible bidder Total Commitment Construction, in the amount $2,810,332.75, and authorize the Mayor to execute the construction contract. (Engineering/Public Works Department)

Fundings for this project is available under account 803-8200-9994-26.

BID #ANP-16-0320

Reviewing Departments: 请审查并转发给下一个审查部门。

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<th>Department</th>
<th>Date Reviewed:</th>
<th>By:</th>
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<tbody>
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<td>City Attorney</td>
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<tr>
<td>Comments:</td>
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<tr>
<td>Finance Department</td>
<td></td>
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<tr>
<td>Comments:</td>
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</tbody>
</table>

City Commission | Assistant City Manager | Deputy City Manager
--- | --- | ---
Approved: [ ] Yes [ ] No | Approved: [ ] Yes [ ] No | Approved: [ ] Yes [ ] No
Date: | Initials: | Date: | Initials: | Date: |

City Manager’s Approval

Signature: | Date:
Date: April 24, 2020

To: Mayor and City Commission

From: Mr. Lupe Granado III, Finance Director

CC: Noel Bernal, City Manager

Subject: Agenda Item for the City Commission meeting of April 28, 2020:

“Consideration and ACTION to vacate the prior City Commission action taken at the meeting of April 21, 2020 purporting to award the Anacua Street and Naranjo Road Pavement, Sidewalk, Driveway and Drainage Improvement Project to G & T Paving LLC and award the project to the lowest responsive and responsible bidder Total Commitment Construction, in the amount of $2,810,332.75, and authorize the Mayor to execute the construction contract.” Local BID # ANP-16-0320

Background

On April 21, 2020, City Commission took action to award a street construction project based on inaccurate information provided by this department. The Texas Local Government Code Section 271 (local preference) was cited as a basis to award contract to a non-lowest bidder. Upon subsequent award review, it was determined that because of the contract amount threshold Section 271 could not be invoked. We also reviewed Texas Local Government Code Section 252 (Best Value) which provides the ability to award contracts to a non-lowest bidder. Section 252 is not allowable for street construction projects. The details of each respective TLGC section are referenced as follows:

**Texas Local Government Code §271.0951**

Provides local municipalities the ability to award contracts to a bidder whose principal place of business is in the City of Brownsville and whose bid is within 5% of the lowest responsive and responsible vendor. The governing body must also determine that the local bidder offers the city the best combination of contract price and additional economic development opportunities, including the employment of residents of the local government and increased tax revenue.

Texas Local Government Code §271.0951 can be invoked for constructions projects that are less than $100,000.00 and cannot be used for the aforementioned project.

**Texas Local Government Code §252.043**

Provides local municipalities the ability to award contracts to a bidder for goods or services that satisfies the Best Value criteria that is not considered the lowest responsive and responsible bidder. Best Value, however, is not allowable for construction projects as outlined under §252.043 (d)

Except as provided by Subsection (d-1), the contract must be awarded to the lowest responsible bidder if the competitive sealed bidding requirement applies to the contract for construction of:

1. highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction
(d-1) A contract for construction of a project described by Subsection (d) that requires an expenditure of $1.5 million or less may be awarded using the competitive sealed proposal procedure prescribed by Subchapter D, Chapter 2269, Government Code.

**Recommendation**

The Finance Department recommends rescinding the award from G&T Paving and awarding the contract to the lowest responsive and responsible vendor, Total Commitment Construction, in the amount of $2,810,332.75.

The City Commission maintains the option to reject all bids and rebid this project.
To: Mayor and City Commission
Through: Noel Bernal, City Manager
From: Armando Gutierrez, Director
Date: April 24, 2020

Agenda: Consideration and ACTION to vacate the prior City Commission action taken at the meeting of April 21, 2020 purporting to award the Anacua Street and Naranjo Road Pavement, Sidewalk, Driveway and Drainage Improvement Project to G & T Paving LLC and award the project to the lowest responsive and responsible bidder Total Commitment Construction, in the amount of $2,810,332.75, and authorize the Mayor to execute the construction contract.

Summary

At the meeting of April 21, 2020 the Anacua Street and Naranjo Road Pavement, Sidewalk, Driveway and Drainage Improvement Project was awarded to G & T Paving LLC as being the bidder who provided the best value for the City of Brownsville. G & T Paving LLC was the second lowest bidder but are located in Brownsville and thus a local contractor. However after further evaluation of the state’s procurement laws it was determined that the determination of goods or services at the best value for the municipality does not apply to contract for construction of highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction. Therefore this project must be awarded to the lowest responsible bidder who is Total Commitment Construction, in the amount of $2,810,332.75, and authorize the Mayor to execute the construction contract.
Memorandum
Engineering / P.W. Department

TO: Jose Perez, Assistants Purchasing Director
FROM: Armando Gutierrez, P.E. Engineering / P.W. Director
DATE: March 25, 2020
RE: Award of Bid for the Street Paving & Drainage Improvements for Naranjo Rd

Summary

The City of Brownsville received eight (8) bids for aforementioned project on February 6, 2020. The bids received were from Total Commitment Construction Co, G & T Paving LLC, Pederson Construction, RG Enterprices DBA G&G Contractors, Foremost Paving Inc., Jimmy Closner & Sons, 2GS, and LLC, Clore Equipment LLC. Minor corrections were made as shown on attached bid tabulation. The lowest bid amount was submitted by Total Commitment Construction in the amount of $2,810,332.75

Scope of Work
The project scope consists of streets, drainage and utility reconstruction. The Naranjo Road reconstruction project is within Electoral District 3. The construction time for this project is estimated to be 270 consecutive calendar days from the issuance of the Notice to Proceed.

The Engineering & P.W. Department recommends that Total Commitment Construction Co, LLC be awarded the bid in the amount of $2,810,332.75 for said project. Funding for this project is available under the Street Construction Naranjo RD account 803-8200-9994-26.
<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>QTY.</th>
<th>UNIT</th>
<th>PRICE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Remove existing asphalt and base at depths</td>
<td></td>
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<td>AMOUNT</td>
<td></td>
</tr>
<tr>
<td>2. Install 2 inch H.M.A. (Type D)</td>
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<td>AMOUNT</td>
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<tr>
<td>3. Place 3 inch H.M.A. (Type D)</td>
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<td>AMOUNT</td>
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</tr>
<tr>
<td>4. Place 4 inch H.M.A. (Type D)</td>
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<td>AMOUNT</td>
<td></td>
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<tr>
<td>5. Prime Coat (0.05 Gal/SY)</td>
<td></td>
<td></td>
<td>AMOUNT</td>
<td></td>
</tr>
<tr>
<td>6. Remove existing curb &amp; gutter.</td>
<td></td>
<td></td>
<td>AMOUNT</td>
<td></td>
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<tr>
<td>7. Proposed concrete sidewalk (Meet ADA standard)</td>
<td></td>
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<td>AMOUNT</td>
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<tr>
<td>8. Proposed 5' wide concrete valley gutter</td>
<td></td>
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<td>AMOUNT</td>
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<tr>
<td>9. Proposed reinforced concrete apron (7&quot;)</td>
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<td>AMOUNT</td>
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<tr>
<td>10. Proposed 4&quot; stamped concrete colored median.</td>
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<td>AMOUNT</td>
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<tr>
<td>11. Furnish and placing select fill.</td>
<td></td>
<td></td>
<td>AMOUNT</td>
<td></td>
</tr>
<tr>
<td>12. Furnish and placing clay material ditch work.</td>
<td></td>
<td></td>
<td>AMOUNT</td>
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</tr>
<tr>
<td>13. Furnish and placing clay material ditch work (w/ 2% cement)</td>
<td></td>
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<td>AMOUNT</td>
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<tr>
<td>14. Traffic Control Plan Sign &amp; Seal by P.E.</td>
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<td>AMOUNT</td>
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<tr>
<td>15. Erosion Control Plan</td>
<td></td>
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<td>AMOUNT</td>
<td></td>
</tr>
<tr>
<td>16. Traffic Control Plan</td>
<td></td>
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<td>AMOUNT</td>
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</tr>
<tr>
<td>17. Subgrade work 6&quot; lime stabilized compacted to 95% Standard Proctor Dens</td>
<td></td>
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<td>AMOUNT</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>QTY.</th>
<th>UNIT</th>
<th>PRICE</th>
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<tbody>
<tr>
<td>1. Total Commitment</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>2. G &amp; T PAVING LLC</td>
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<tr>
<td>3. PAVING IMPROVEMENTS</td>
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<tr>
<td>4. RG ENTERPRISES</td>
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<td>AMOUNT</td>
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</tr>
<tr>
<td>5. PEDERSON CONSTRUCTION</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>6. FOREMOST PAVING INC</td>
<td></td>
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<td>AMOUNT</td>
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</tr>
<tr>
<td>7. JIMMY CLOUSER &amp; SONS</td>
<td></td>
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<td>AMOUNT</td>
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</tr>
<tr>
<td>8. 2GS, LLC</td>
<td></td>
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</tr>
<tr>
<td>9. CLORE EQUIPMENT LLC</td>
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**DRAINAGE IMPROVEMENTS FOR NARANJO RD**

<table>
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<tr>
<th>DESCRIPTION</th>
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<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Furnish and install single water service shutoff</td>
<td>3 EA</td>
<td>$900.00</td>
<td>2,700.00</td>
<td>$950.00</td>
<td>2,850.00</td>
<td>$1,200.00</td>
<td>3,600.00</td>
<td>$863.70</td>
<td>2,591.14</td>
<td>$1,500.00</td>
<td>4,500.00</td>
<td>$1,400.00</td>
<td>4,200.00</td>
<td>$1,900.00</td>
<td>5,700.00</td>
</tr>
<tr>
<td>2. Furnish and install single water service (Long)</td>
<td>3 EA</td>
<td>$1,600.00</td>
<td>4,800.00</td>
<td>$1,250.00</td>
<td>3,750.00</td>
<td>$1,500.00</td>
<td>4,500.00</td>
<td>$889.68</td>
<td>2,668.07</td>
<td>$1,600.00</td>
<td>4,800.00</td>
<td>$2,400.00</td>
<td>7,200.00</td>
<td>$2,850.00</td>
<td>8,550.00</td>
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<tr>
<td>3. Furnish and install 10&quot; 45° Bend</td>
<td>20 EA</td>
<td>$1,200.00</td>
<td>24,000.00</td>
<td>$2,450.00</td>
<td>49,000.00</td>
<td>$650.00</td>
<td>13,000.00</td>
<td>$1,336.39</td>
<td>17,223.38</td>
<td>$700.00</td>
<td>14,000.00</td>
<td>$1,200.00</td>
<td>24,000.00</td>
<td>$2,750.00</td>
<td>7,500.00</td>
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<tr>
<td>4. Remove existing Fire Hydrant.</td>
<td>1 EA</td>
<td>$5,000.00</td>
<td>5,000.00</td>
<td>$4,500.00</td>
<td>4,500.00</td>
<td>$2,500.00</td>
<td>2,500.00</td>
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<td>$3,200.00</td>
<td>6,320.00</td>
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<tr>
<td>5. Furnish and install dewatering system</td>
<td>400 LF</td>
<td>$100.00</td>
<td>40,000.00</td>
<td>$19.00</td>
<td>7,600.00</td>
<td>$20.00</td>
<td>8,000.00</td>
<td>$75.68</td>
<td>302.72</td>
<td>$87.70</td>
<td>340.80</td>
<td>$20.00</td>
<td>8,000.00</td>
<td>$200.00</td>
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**UTILITY IMPROVEMENTS FOR NARANJO RD**

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<tbody>
<tr>
<td>1. Furnish and install new water hydrant street valves and fittings.</td>
<td>1 EA</td>
<td>$5,300.00</td>
<td>5,300.00</td>
<td>$4,500.00</td>
<td>4,500.00</td>
<td>$5,200.00</td>
<td>5,200.00</td>
<td>$507.44</td>
<td>507.44</td>
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<td>5,200.00</td>
</tr>
<tr>
<td>2. Furnish and install dewatering system</td>
<td>400 LF</td>
<td>$100.00</td>
<td>40,000.00</td>
<td>$19.00</td>
<td>7,600.00</td>
<td>$20.00</td>
<td>8,000.00</td>
<td>$75.68</td>
<td>302.72</td>
<td>$87.70</td>
<td>340.80</td>
<td>$20.00</td>
<td>8,000.00</td>
<td>$200.00</td>
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**SPECIFICATIONS**

- **Total Commitment Construction Co, LLC**
- **G & T PAVING LLC**
- **PEDERSON CONSTRUCTION**
- **RG ENTERPRISES DBA G & G CONTRACTORS**
- **FOREMOST PAYING INC**
- **JIMMY CLOSNER & SONS**
- **ZGS, LLC**
- **CLORE EQUIPMENT LLC**
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<th>Specification Criteria</th>
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<th>PEDERSON CONSTRUCTION</th>
<th>RG ENTERPRISES RG &amp; G CONTRACTORS</th>
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<th>JIMMY CLOSNER &amp; SONS</th>
<th>2GS, LLC</th>
<th>CLORE EQUIPMENT</th>
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<tr>
<td>TOTAL STREET PAVING FOR NARANJO RD</td>
<td>$2,262,930.00</td>
<td>$2,378,509.85</td>
<td>$2,758,065.00</td>
<td>$3,033,849.46</td>
<td>$2,907,063.75</td>
<td>$3,132,192.50</td>
<td>$2,890,697.50</td>
<td>$3,198,943.50</td>
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<td>TOTAL DRAINAGE IMPROVEMENTS</td>
<td>$385,652.75</td>
<td>$361,989.75</td>
<td>$393,996.00</td>
<td>$369,656.79</td>
<td>$506,773.00</td>
<td>$576,070.00</td>
<td>$717,652.50</td>
<td>$823,235.20</td>
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<td>$161,750.00</td>
<td>$154,210.00</td>
<td>$213,150.00</td>
<td>$177,126.05</td>
<td>$286,100.00</td>
<td>$247,100.00</td>
<td>$394,950.00</td>
<td>$503,129.06</td>
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<tr>
<td>TOTAL CONSTRUCTION IMPROVEMENTS</td>
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<td>$2,894,709.60</td>
<td>$3,365,211.00</td>
<td>$3,580,632.30</td>
<td>$3,699,936.75</td>
<td>$3,955,962.50</td>
<td>$4,003,300.00</td>
<td>$4,525,307.76</td>
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* Red indicates error on contractor's tabulation.